

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP  
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Attorney for CITICORP TRUST BANK, FSB FKA TRAVELERS BANK & TRUST ITS ASSIGNS AND/OR  
SUCCESSORS IN INTEREST

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

IN RE:	§ CASE NO. 09-20083-RLJ-13
	§
BEATRICE G. MAREZ, Debtor	§ CHAPTER 13
	§
CITICORP TRUST BANK, FSB FKA TRAVELERS BANK & TRUST ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST, Movant	§ § § § § HEARING DATE: 10/15/2009
	§
v.	§ TIME: 11:00 AM
	§
BEATRICE G. MAREZ; WALTER O'CHESKEY, Trustee Respondents	§ § § JUDGE ROBERT L. JONES

**MOTION OF CITICORP TRUST BANK, FSB FKA TRAVELERS BANK & TRUST  
ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST  
FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR(S) PURSUANT TO 11  
U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO  
§ 362(e)**

**NOTICE**

**NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN  
RESPONSE IS ELECTRONICALLY FILED OR SUBMITTED ON DISKETTE TO  
THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT P.O. BOX  
15960, AMARILLO, TX 79105-0960 BEFORE THE CLOSE OF BUSINESS TWELVE  
DAYS FROM THE SERVICE OF THIS MOTION. IF SERVICE IS BY MAIL,  
THREE ADDITIONAL DAYS ARE ALLOWED PURSUANT TO FED. R. BANKR. P.  
9006 (f).**

**ANY RESPONSE MUST BE IN WRITING, ELECTRONICALLY FILED OR SUBMITTED ON DISKETTE TO THE CLERK AND A COPY SERVED UPON COUNSEL FOR THE MOVING PARTY WITHIN THE TIME DESCRIBED ABOVE. IF NO RESPONSE IS TIMELY FILED, THE RELIEF REQUESTED SHALL BE DEEMED UNOPPOSED AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT.**

**IF A RESPONSE IS FILED, A FINAL HEARING ON THE MOTION WILL BE HELD AT 11:00 AM ON OCTOBER 15, 2009, IN 624 SOUTH POLK STREET, ROOM 100, AMARILLO, TX 79101-2389. THE RESPONSE MUST CONTAIN THE INFORMATION REQUIRED BY N.D. TEX. L.B.R. 4001.1 (b).**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, CITICORP TRUST BANK, FSB FKA TRAVELERS BANK & TRUST ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST, by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about February 20, 2009, Debtor (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.
3. At the time of filing the Chapter 13 petition, Movant held a Texas Home Equity Note executed on February 22, 2008, in the original amount of FORTY-EIGHT THOUSAND THREE HUNDRED SEVENTY-TWO DOLLARS AND EIGHTY-FIVE CENTS (\$48,372.85) with interest thereon at the rate of 9.048% per annum. A true and correct copy of the Texas Home Equity Note is attached hereto as Exhibit "A".

4. The indebtedness is secured by a Texas Home Equity Security Instrument dated February 22, 2008 and executed by BEATRICE G. MAREZ and ADELAIDO MAREZ on real

estate with all improvements known as:

LOT NINE (9), IN BLOCK ONE (1) OF SUNRISE ADDITION, UNIT 3, AN  
ADDITION TO THE CITY OF AMARILLO, POTTER COUNTY, TEXAS,  
ACCORDING TO THE RECORDED PLAT THEREOF.

A true and correct copy of the Texas Home Equity Security Instrument is attached hereto as Exhibit "B".

5. Debtor has failed to maintain current the post-petition payments due under the Texas Home Equity Note and is presently in arrears for 4 payments through and including the August 20, 2009 payment.

6. The outstanding indebtedness to Movant is \$46,531.66 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Texas Home Equity Note and Texas Home Equity Security Instrument.

7. Further cause may exist to terminate the automatic stay if the Debtor fails to provide proof of adequate insurance and payment of applicable taxes by Debtor as required by the Texas Home Equity Note and Texas Home Equity Security Instrument. Movant hereby demands proof of insurance and payment of applicable taxes by Debtor. Movant reserves the right to further assert that Debtor has failed to pay taxes or insurance based on the response of Debtor.

8. In accordance with the terms of the Texas Home Equity Note and Texas Home Equity Security Instrument, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

9. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Texas Home Equity Note and Texas Home Equity Security Instrument.

11. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

12. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all post-petition payments brought current. Movant further prays that the Court waive the provision of Rule 4001 (a) (3) and that CITICORP TRUST BANK, FSB FKA TRAVELERS BANK & TRUST ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

BY: /s/ JEFF FLEMING

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ATTORNEY FOR MOVANT

9/18/2009

**CERTIFICATE OF CONFERENCE**

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, represents the creditor on the foregoing Motion. The undersigned, an attorney, employed by BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, states that prior to filing the foregoing motion he/she did the following:

Made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel.

NOTES: Kadra Alexander called Debtor's counsel and spoke with Sue who requested 48 hours to contact Debtor.

Date of Conference Call: September 11, 2009 4:03 p.m.

BY: /s/ JEFF FLEMING 9/18/2009  
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ATTORNEY FOR MOVANT

**CERTIFICATE OF SERVICE**

I hereby certify that on September 18, 2009, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

/s/ JEFF FLEMING

9/18/2009

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ATTORNEY FOR MOVANT

**DEBTOR:**

BEATRICE G. MAREZ  
1416 S. HODGES  
AMARILLO, TX 79104

**CO-DEBTOR:**

ADELAIDO MAREZ  
1416 S HODGES  
AMARILLO, TX 79104

**TRUSTEE:**

WALTER O'CHESKEY  
6308 IOLA AVENUE  
LUBBOCK, TX 79424

**US TRUSTEE:**

1100 COMMERCE STREET, ROOM 976  
EARLE CABELL FEDERAL BLDG  
DALLAS, TX 75242

**DEBTOR'S ATTORNEY:**

TROY A. BLACKWELL  
703 S. VAN BUREN  
AMARILLO, TX 79101

**PARTIES IN INTEREST:**

INTERNAL REVENUE SERVICE  
PO BOX 21126  
PHILADELPHIA, PA 19114

POTTER COUNTY TAX COLLECTOR  
PO BOX 2289  
AMARILLO, TX 79105

**PARTIES REQUESTING NOTICE:**

None